



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF S-S-, INC.

DATE: APR. 22, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an IT development and consulting company, seeks to employ the Beneficiary as a software engineer. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. We will summarily dismiss the appeal.

The I-140 petition was filed on July 28, 2014. The petition was accompanied by an ETA Form 9089, Application for Permanent Employment Certification, which was filed with the Department of Labor (DOL) on November 22, 2013, and certified by the DOL (labor certification) on May 29, 2014.

On June 29, 2015, the Director denied the petition on the ground that the Petitioner did not establish its continuing ability to pay the proffered wage of the instant Beneficiary, as well as the proffered wages of all the other beneficiaries of I-140 petitions it had filed, from the priority date of the instant petition (November 22, 2013) onward. The Petitioner filed a timely appeal.

On January 8, 2016, we issued a request for evidence (RFE). We requested additional documentation to establish the Petitioner's ability to pay the proffered wages of the instant Beneficiary and all of its other I-140 beneficiaries from the priority date of the instant petition up to the present. We also requested evidence showing that the Petitioner would be the Beneficiary's actual employer, and that the Beneficiary had five years of qualifying experience as required on the labor certification. We afforded the Petitioner 87 days to respond to the RFE.

The Petitioner did not respond to the RFE within the 87-day period allowed, or at any time up to the date of this decision. If a petitioner fails to respond to a request for evidence by the required date, the petition may be summarily denied as abandoned, denied based on the record, or denied for both reasons. *See* 8 C.F.R. § 103.2(b)(13)(i).

Matter of S-S-, Inc.

Since the Petitioner has not responded to the RFE of January 8, 2016, the petition is deniable under the regulatory provision cited above. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13).

Cite as *Matter of S-S- Inc.*, ID# 15606 (AAO Apr. 22, 2016)